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*Assembly
California Legislature*



JOSE SOLORIO
Assemblyman, Sixty-Ninth Assembly District

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December 2, 2009

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger:

I was one of the seventy-six Legislators in the Assembly who voted for Assembly Bill X4 22 in July as part of an effort to balance the 2009-2010 budget. Since then, numerous questions and disturbing facts have emerged that raise serious concerns about the proposed sale of the Orange County Fairgrounds.

Given the seriousness of the issues raised concerning the legitimacy of the process and activities surrounding the proposed sale, Assemblymember Van Tran and I held a public hearing on November 19 in Costa Mesa. The purpose was to gain a better understanding of the pending sale process and to gather public input. I learned that the process for carrying out this sale has been tainted by misinformation, misrepresentation, conflicts of interests, questionable legal and ethical activities, and that a potential constitutional barrier regarding the sale of the property exists.

As the Administration reviews this current sale process and contemplates future state property sales, it is important that it consider the issues that have surfaced to date. Below are major issues of contention that must be considered before further action is taken on the sale of the Orange County Fairgrounds:

Constitutionality of Assembly Bill X4 22

- Assembly Bill X4 22 authorized the sale of the Orange County Fairgrounds and further declared that the sale of the Fairgrounds does not constitute a sale or disposition of state surplus property within the meaning of Section 9 of Article III of the California Constitution. A recent consult with Legislative Counsel indicates that a statute may not amend the California Constitution. Thus, the validity of this statutory declaration, which effectively allows use of the proceeds from the sale of the Fairgrounds for any state purpose, may be invalid. Assuming that the Fairgrounds was purchased with General Fund monies or with bonds secured by the General Fund, proceeds from the sale of the property must only be used to pay principal and interest on outstanding Economic Recovery Bonds. Use of the proceeds of sale for any other purpose, including meeting current annual budget obligations, violates the California Constitution.

Assessment of Property Value

- Even if the sale of the fairgrounds withstands a constitutional challenge, there is still an outstanding question as to whether the sale of the property will generate the \$96 to \$180 million that was estimated. What we do know is that the original \$96 to \$180 million dollar estimated value appears to be based on unsubstantiated development opportunities for the site. However, given the continuing weakness in the real estate market, the City of Costa Mesa's opposition to the sale of the property and its new efforts to further restrict the zoning of the property, potential bids for the property most likely will be nowhere near the estimated purchase price. The state's Department of General Services (DGS) has not conducted an appraisal of the property and staff admitted during our public hearing that they have no idea what to expect as a reasonable bid. As noted in the attached letter, DGS believes that Costa Mesa's pending zoning restrictions will greatly diminished the property's anticipated value.

Recent publicized meetings and actions by the City of Costa Mesa and County of Orange to consider resolutions asking that the state stop the sale of the OC Fairgrounds are also serving as a deterrent to receiving responsible bids for the property. Copies of the resolutions passed by those two local governments are attached.

Future of Fairground State Employees

- The impact of the sale on OC Fairground state employees was never raised during the debate on the legislation, now leaving many unanswered questions about their future. Approximately 100 state employees work at the OC Fairgrounds. Given the conditions set in the Request for Proposals, the Orange County Fair would operate during the summer of 2010, but after that there may be no more work for the employees. Had the Legislature been made aware that this was the intent of the Administration, I doubt the legislation would have been approved in its current form.

Conflict of Interest and Ethical Concerns

- There have been allegations that the Orange County Fair Board (a public board appointed by the Governor), which oversees the state-owned Orange County Fairgrounds, has violated Government Code Section 1090 and the Bagley-Keene Open Meeting Act by forming a private foundation to bid on the property. Six of the current Orange County Fair Board members make up the majority vote of the new, private Orange County fair foundation board. Charges of improprieties by the current Orange County Fair Board are leaving some potential buyers on the sidelines. The perception in Orange County is that "insider" information will give the Orange County Fair Boardmembers' "foundation" an unfair competitive edge in the bidding process. Further complicating this dynamic is that the state's and Orange County Fair Board's interest is to receive the highest possible bid amount, while it is in the interest of the private foundation to buy the fairgrounds for the least possible amount. Thus, the involvement by the Orange County Fair Board, and its executive staff and hired consultants, in collaborating with DGS to develop the terms of the Request for Proposals and the bidding process has been inappropriate.

- In a November 13, 2009 letter of response to Orange County Counsel Nicholas Chrisos's request for an examination of the questionable actions of the Orange County Fair Boardmembers, Gary Schons, State Senior Assistant Attorney General said, "It would be inappropriate for this office to launch a criminal investigation into the matters raised in your letter given that this office represents the board." Mr. Schons then went on to say the investigation request is within the

jurisdiction of Orange County District Attorney Tony Rackauckas. District Attorney Rackauckas is now investigating the matter. In the event that there are any criminal implications, as Governor, surely you would want to wait to learn the results of the investigation before continuing with the sale.

For the reasons I have stated above, I am convinced that the State of California has not positioned itself to maximize the price of this particular sale, nor is it setting best practices for future transactions. In fact, I believe the circumstances have been set to encourage low bids and discourage private sector bids (with the exception of the private non-profit fair foundation that your political appointees have created).

I strongly request that you stop the current process to sell the Orange County Fairgrounds. Under the current circumstances, it is not in the best interest of California or Orange County to sell this valuable property.

Consistent with this request, I have also introduced legislation today which would repeal the section of Assembly Bill X4 22 related to the sale of the Orange County Fairgrounds, and plan to conduct additional hearings in Orange County and Sacramento on the process if the sale is not stopped.

Should you want to discuss this with me in greater detail, I welcome the opportunity to talk with you. I will follow up with your office to further discuss this matter and I thank you for your consideration.

Sincerely,



JOSE SOLORIO
State Assemblyman

Enclosures: DGS Letter to City of Costa Mesa
City of Costa Mesa Resolution Requesting Sale be Stopped
County of Orange Resolution Requesting Sale be Stopped
Letter to and from the Attorney General's Office

cc: The Honorable Karen Bass, Speaker, California Assembly
The Honorable Darrell Steinberg, President Pro Tem, California Senate
The Honorable Jerry Brown, California State Attorney General
The Honorable Denise Ducheny, Chair, Senate Budget Committee
The Honorable Christine Kehoe, Chair, Senate Appropriations Committee
The Honorable Noreen Evans, Chair, Assembly Budget Committee
The Honorable Kevin De León, Chair, Assembly Appropriations Committee
Orange County Board of Supervisors
Costa Mesa City Mayor and Councilmembers
The Honorable Tony Rackauckas, Orange County District Attorney
Orange County Fair Board Members
Fair Practices Political Practices Commission Members
Mr. Ron Diedrich, Acting Director, California Department of General Services

